

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	§	
<b>Plaintiff,</b>	§	
	§	
v.	§	<b>CASE NO. A-96-CR-190(1)-JRN</b>
	§	
<b>TONY DAVIS,</b>	§	
<b>Defendant,</b>	§	
and	§	
	§	
<b>BBVA COMPASS BANK, CHASE</b>	§	
<b>BANK, JP MORGAN CHASE BANK,</b>	§	
<b>N.A., UNIVERSITY FEDERAL</b>	§	
<b>CREDIT UNION, WASHINGTON</b>	§	
<b>MUTUAL BANK, FA, and WELLS</b>	§	
<b>FARGO BANK, N.A.,</b>	§	
<b>Garnishees.</b>	§	

**UNITED STATES’S REQUEST FOR HEARING IN GARNISHMENT PROCEEDING  
AS TO GARNISHEE JP MORGAN CHASE BANK, N.A.**

1. On August 26, 2010, the Court ordered that a Writ of Garnishment be issued against the Garnishees herein, three of which are named as JP Morgan Chase Bank, N.A., Chase Bank, and Washington Mutual Bank, FA, and Tony Davis, Defendant [Doc. 563]. Appropriate service was made on all parties.

2. Garnishee JP Morgan Chase Bank, N.A., which is the same entity as named garnishee Chase Bank, filed an amended answer to the writ on behalf of JP Morgan Chase Bank and as successor in interest to Washington Mutual Bank, FA [Doc. 589]. Hereinafter, these three garnishees will collectively be referred to as “Chase Bank.” Chase Bank admitted that it had nonexempt property in its possession. Specifically, Chase Bank stated that it held a number of accounts in the name of Tony Davis or a business he operated with his ex-wife, Gaylan Davis. The amended answer also stated that a safe deposit box in the name of “Olga Myelnikova-Bell”

is being held, based on Defendant's sworn representation in bankruptcy proceedings that the box contains 25 gold coins of an approximate value of \$31,000 which belong to him.

3. Although properly served with notice of the garnishment proceedings, Defendant has not claimed exemptions, requested a hearing, or in any other way responded.<sup>1</sup>

4. Although neither Defendant nor Olga Myelnikova-Bell have filed an objection with the Court, the United States has received correspondence from each of them disputing Defendant's ownership of the gold coins which are reputedly in the safe deposit box.<sup>2</sup> Therefore, the United States believes a hearing would be appropriate, in the interest of justice and to protect Garnishee Chase Bank. Title 28, Section 3205(c)(5) provides that if an objection is filed and a hearing is requested, "[t]he court shall hold a hearing within 10 days after the date the request is received by the court, or as soon thereafter as is practicable, and give notice of the hearing date to all the parties."

Accordingly, the United States requests that a hearing be held on the matter of the ownership of the gold coins which are allegedly stored in the safe deposit box of JP Morgan Chase Bank, N.A., and on any other matters of dispute in regard to Chase Bank. The United States is amenable to telephonic participation by counsel for Garnishee, as bank counsel is located in Dallas and the bank takes no position on the ownership of the contents of the safe deposit box. The United States requests that pursuant to the statute, notice of the hearing date be given to all parties. To the best of the undersigned counsel's knowledge, the persons who may have an interest in these proceedings and their addresses are as follows:

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<sup>1</sup>Based on past sanctions, Defendant is barred from filing pleadings with this Court without first obtaining permission from the Fifth Circuit Court of Appeals. He has not sought permission from the appellate court to respond to this garnishment action.

<sup>2</sup>Defendant is now recanting his sworn representations in bankruptcy court.

Tony Davis, 2103 Kemper Cove, Austin, TX 78746 (Defendant);

Truman E. Spring, Jr., Attorney at Law, 1412 Main Street, Suite 400, The Adolphus Tower, Dallas, TX 75202 (Garnishee's attorney) (Mr. Spring is already listed for electronic notice of court proceedings);

Olga Myelnikova-Bell, 2103 Kemper Cove, Austin, TX 78746 or c/o Serendipity Bridal, 2438 West Anderson Lane, Austin, TX 78757 (Defendant's fiancée and named holder of the safe deposit box); and

Gaylan P. Davis, 6902B Thorncliffe Drive, Austin, TX 78731 (Defendant's ex-wife and named signatory on Defendant's business account in name of "International Legal Services").

Respectfully submitted,

JOHN E. MURPHY  
United States Attorney

By: /s/ Susan B. Biggs  
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#### **CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of December, 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

James W. Goldsmith  
R. Spencer Shytles  
Truman E. Spring, Jr.

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Tony Davis  
2103 Kemper Cove  
Austin, TX 78746

/s/ Susan B. Biggs  
Assistant U. S. Attorney